



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Re Patent Application of:  
Harry R. Davis et al.

Examiner: Mojdeh Bahar

Serial No.: 10/057,629

Group Art Unit: 1617

Filed: January 25, 2002

Atty. Docket No.: CV01382K

For: Use of Substituted Azetidinone  
Compounds for the Treatment  
Of Sitosterolemia

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

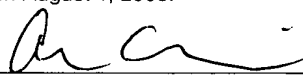
**RESPONSE TO RESTRICTION REQUIREMENT AND ELECTION OF SPECIES**

This is in response to the Office Action mailed on July 2, 2003, in the above-identified patent application.

Claims 1-58 are pending in the application. A two-way restriction requirement was set forth at page 2 of the Office Action and an election of species requirement was set forth at pages 2-3 of the Office Action. For brevity, these rejections are not repeated herein but reference is made to the Office Action. Applicants respectfully traverse and request reconsideration and withdrawal of the restriction and election of species requirements.

Applicants believe that when there is a linking claim encompassing the scope of pharmaceutical compositions comprising compounds and methods of treatment using the compositions, it is inappropriate to restrict the invention. Applicants believe that due to such commonality a complete examination of claims 1-58 would not cause undue burden. Therefore, reconsideration and withdrawal of the restriction requirement is respectfully requested.

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Ann Cannoni  
Registration No. 35,972



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**PROVISIONAL RESPONSE TO RESTRICTION REQUIREMENT AND  
ELECTION OF SPECIES**

To facilitate prosecution of the application and in order to comply with the Examiner's requirements, Applicants hereby provisionally elect with traverse the claims of Group 1 (claims 1-24, 32-45 and 48-56) for initial examination in this application.

Applicants provisionally elect with traverse cholestyramine as the lipid-lowering agent for initial examination. Cholestyramine is a bile acid sequestrant and is disclosed at page 41, line 22 and elsewhere throughout the application. The claims readable thereon include claims 15 and 19-21, 28, 32, 43-47, and 57-58.

Applicants provisionally elect with traverse the compound of Formula (VIII) (ezetimibe) (shown at page 32 of the specification) for initial examination in this application. The claims readable thereon include claims 1, 8-9, and 13-58.

Applicants provisionally elect with traverse simvastatin as the third therapeutic agent for initial examination in this application. Simvastatin is disclosed at page 42, line 17 and elsewhere throughout the application. The claims readable thereon are claims 15-24, 28-31, 33, 41, 42 and 57.

Examination on the merits for claims 1-58 is respectfully requested.

Respectfully submitted,

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Registration No. 35,972  
Attorney for Applicant

Date: August 1, 2003

  
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Attorney Docket No.: CV 82K

Application No.: 10/057,629

Filing Date: 01/25/2002

Inventor: Harry R. Davis et al.



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Documents submitted:

Response to Restriction Requirement and Election Species - 2 Pages

Response Transmittal Form PTO/SB/21 - 1 Page

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# TRANSMITTAL FORM

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Application Number

10/057,629

Filing Date

01/25/2002

First Named Inventor

Harry R. Davis, et al.

Art Unit

1617

Examiner Name

Mojdeh Bahar

Attorney Docket Number

CV01382K

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## ENCLOSURES (Check all that apply)

☐ Fee Transmittal Form

☐ Fee Attached

☒ Amendment/Reply

☐ After Final

☐ Affidavits/declaration(s)

☐ Extension of Time Request

☐ Express Abandonment Request

☐ Information Disclosure Statement

☐ Certified Copy of Priority Document(s)

☐ Response to Missing Parts/  
Incomplete Application

☐ Response to Missing Parts  
under 37 CFR 1.52 or 1.53

☐ Drawing(s)

☐ Licensing-related Papers

☐ Petition

☐ Petition to Convert to a  
Provisional Application

☐ Power of Attorney, Revocation  
Change of Correspondence Address

☐ Terminal Disclaimer

☐ Request for Refund

☐ CD, Number of CD(s) \_\_\_\_\_

Remarks

☐ After Allowance Communication  
to Group

☐ Appeal Communication to Board  
of Appeals and Interferences

☐ Appeal Communication to Group  
(Appeal Notice, Brief, Reply Brief)

☐ Proprietary Information

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Firm  
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Ann Marie Cannoni, Reg. No. 35,972

Signature

*Ann Marie Cannoni*

Date

August 1, 2003

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